IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4307 of 1991

For Approval and Signature:

HONOURABLE MR.JUSTICE SHARAD D.DAVE

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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G S R T C - Petitioner(s)
Versus
BHUPATRAY K GOSAI - Respondent(s)

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Appearance :
MR HARDIK C RAWAL for Petitioner(s) : 1,
MR MUKESH H RATHOD for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE SHARAD D.DAVE
Date : 10/04/2006

ORAL JUDGMENT

1. By filing this petition, the petitioner has prayed for quashing and setting aside the judgment and award dated 11.1.1991 delivered by the Labour Court, Bhavnagar in Reference (LCB) No.555 of 1988, by which the Labour Court has directed the petitioner – Corporation to reinstate the respondent – workman on his original post with continuity of service and that the Labour Court has also granted 50% back wages

for the intervening period.

2. Heard Mr.H.C.Raval, learned advocate appearing for the petitioner – Corporation and Mr.Mukesh H Rathod, learned advocate for the respondent – workman.

3. At the hearing, it is submitted by Mr.Raval that the respondent – workman has already been reinstated in service and, therefore, now the question which remains to be decided by this Court is with regard to 50% back wages granted by the Labour Court vide impugned judgment and award dated 11.1.1991. It is further submitted by Mr.Raval that there cannot be straight jacket formula for granting the back wages in favour of the concerned workman and admittedly in the present case, the Labour Court has not taken into consideration the relevant factors while granting the back wages. It is, therefore, requested that the respondent – workman is not entitled for any back wages as has been granted by the Labour Court in view of the fact that the Labour Court has specifically come to the conclusion that in the past also the respondent – workman was negligent in discharging his duties.

4. On the other hand, Mr.Rathod has submitted that if the order of reinstatement passed by the Labour Court is confirmed by this Court, in that

case, the respondent – workman is ready and willing to forgo the back wages granted by the Labour Court.

5. It is true that there cannot be straight jacket formula while granting the back wages for the intervening period in favour of the concerned workman and while granting the back wages for the intervening period, the Labour Court is required to take into consideration the relevant factors for granting such benefits. It is required to be noted here that the Labour Court has specifically come to the conclusion that in the past the respondent – workman was negligent in discharging his duties and even though the Labour Court has granted 50% back wages for the intervening period in favour of the respondent – workman. In that view of the matter, I am of the considered opinion that the respondent – workman is not entitled to 50% back wages as has been granted by the Labour Court, Bhavnagar vide judgment and award dated 11.1.1991 in Reference (LCB) No.555 of 1988.

6. In the result, this petition is partly allowed. The respondent – workman is not entitled for 50% back wages as has been granted by the Labour Court vide judgment and award dated 11.1.1991 in Reference (LCB) No.555 of 1988. Rule is made absolute to the aforesaid extent.

(SHARAD D DAVE, J)

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